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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/580,113      | 05/19/2006  | Sadayuki Aoki        | 056208.57745US      | 7511             |

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WASHINGTON, DC 20044-4300

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| EXAMINER |
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FRISTOE JR, JOHN K

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| ART UNIT | PAPER NUMBER |
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3753

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| MAIL DATE | DELIVERY MODE |
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03/18/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                       |                                       |  |
|------------------------------|---------------------------------------|---------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/580,113  | <b>Applicant(s)</b><br>AOKI, SADAYUKI |  |
|                              | <b>Examiner</b><br>JOHN K. FRISTOE JR | <b>Art Unit</b><br>3753               |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 5/19/2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/21/2008</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-3 and 5-20 have been considered but are moot in view of the new ground(s) of rejection. Applicant argues that it is apparent that the "portions" recited in claims 1 and 2 are different members, the examiner disagrees. By calling each element "portion" any time in a depending claim that "the portion" is referred to will be unclear since there will be no way to know which "portion" is being referred to in the claim. This problem could be easily fixed by amending the claims to call the portions, a "first portion" and a "second portion". Since any changes to the following prior art rejections were necessitated by Applicant's amendment, the instant Office action has been made final.

### ***Information Disclosure Statement***

2. The information disclosure statement filed 2/21/2008 is acknowledged by the examiner.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear to the examiner if the two "portions" are different members or the same member. This ambiguity would be cleared by naming the second "portion" something else.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 9-12, 15-18, and 20 as well as 1-8 as far as they are definite, are rejected under 35 U.S.C. 102(b) as being anticipated by Japanese Pat. No. 2001-346351 (Matsuura). Matsuura discloses a throttle device comprising a throttle body (83), an air intake passage (leads to element 81), a throttle valve (81), a motor (13), a motor casing (84), a portion (adjacent the lead ling for element 82h in figure 11), a portion or yoke (13b) having notches (under elements 15, 16, and 18 in figure 2), projections or lugs (15-18 and 21-24), wherein the projections deform and are elastic (seen in figure 2), wherein the projections (15-18 and 21-24) are arranged circumferentially (figure 7), wherein the motor (13) is clearance fitted (relationship between element 13 and 84), a motor guide (above element 82h in figure 12), a clearance fitted motor mounting flange (82h) or bracket, a bearing boss (14), a second bracket (30), a pinion gear (85), wherein the bracket (82h) is wider that the yoke (13) and projections (15-18 and 21-24), wherein the outer diameter of the yoke (13) has a dimension capable of pressing the projections (any touching of the housing 84 with the projection 15-18 and 21-24 can be construed as pressing), and a taper (step down of element 84 in figure 7).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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8. Claims 9-20 as well as 1-3 and 5-8 as far as they are definite, are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Pat. No. 2001-346351 (Matsuura) in view of U.S. Pat. No. 6,860,466 (Sakurai et al.). Matsuura discloses a throttle device comprising a throttle body (83), an air intake passage (leads to element 81), a throttle valve (81), a motor (13), a motor casing (84), a portion (adjacent the lead line for element 82h in figure 11), a portion or yoke (13b) having notches (under elements 15, 16, and 18 in figure 2), projections or lugs (15-18 and 21-24), wherein the projections deform and are elastic (seen in figure 2), wherein the projections (15-18 and 21-24) are arranged circumferentially (figure 7), wherein the motor (13) is clearance fitted (relationship between element 13 and 84), a motor guide (above element 82h in figure 12), a clearance fitted motor mounting flange (82h or bracket, a bearing boss (14), a second bracket (30), ), a pinion gear (85), wherein the bracket (82h is wider than the yoke (13) and projections (15-18 and 21-24), wherein the outer diameter of the yoke (13) has a dimension capable of pressing the projections (any touching of the housing 84 with the projection 15-18 and 21-24 can be construed as pressing), and a taper (step down of element 84 in figure 7) but lacks the projections formed on a ring as well as the bracket having through holes that can be used for screws. Sakurai et al. disclose a throttle device comprising projections (22) disposed on a ring (20) and a bracket (31) with through holes (figure 5) for screws (28). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the throttle valve of Matsuura by having the projections formed on a ring and through holes on the bracket for screws as taught by Sakurai et al. in order to easily replace the projections if they become worn and to secure the motor in a sturdier fashion within the housing.

***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John K. Fristoe Jr. whose telephone number is (571) 272-4926. The examiner can normally be reached on Monday-Friday, 7: 00 a.m-4: 30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory L. Huson can be reached on (571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/John K. Fristoe Jr./  
John K. Fristoe Jr.  
Examiner  
Art Unit 3753

JKF